
**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of

**Telecommunications Relay Services
and Speech-to-Speech Services for
Individuals with Hearing and Speech
Disabilities**

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CC Docket No. 98-67

MCI REPLY COMMENTS

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September 14, 1998

I. Introduction

In the Notice (*Notice*) in the above captioned proceeding, the Commission proposes a variety of amendments to its Telecommunications Relay Service (TRS) rules, with the intent of broadening TRS use and improving the quality of TRS.¹ Among them include:

- requiring common carriers providing voice transmission service to ensure that nationwide speech-to-speech (STS) relay services are available to users with speech disabilities throughout their service areas within two years;
- permitting TRS providers to recover costs from multilingual relay (MRS) and video relay interpreting (VRI) services; and
- raising mandatory minimum standards;
- permitting calling assistants (CA) to alert a TRS user an audiotext system is present and inquire whether the user wants the CA to summarize the message or listen for a specific message;

Thirty-three parties filed comments in this proceeding, including eleven representing industry, eight representing state governments, and sixteen representing TRS users. Parties were generally supportive of the Commission's tentative conclusions, with some supporting greater flexibility and others supporting more demanding requirements. MCI supported the Commission on all of the issues on which it drew tentative conclusions. Parties exhibited greater disagreement on issues on which the Commission did not draw tentative conclusions.

II. Additional Relay Services

A. Scope of the Americans with Disabilities Act (ADA)

In this Notice, the Commission tentatively concluded that Title IV of the ADA is applicable to any wire or radio communication service that enables persons with hearing or speech disabilities to engage in communication with persons without such disabilities, and is not limited

¹Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CC Docket No. 98-67, released May 20, 1998.

to services using TTYs. MCI supported this conclusion.² Indeed, no party opposed this conclusion. The record strongly supports the jurisdiction of the Commission to expand TRS services beyond the use of TTYs.

B. Speech-to-Speech Services (STS)

In its Notice, the Commission tentatively concluded that all carriers must provide STS to callers throughout their service territory within two years.³ Most parties support mandating the provision of STS, although to varying degrees. Only AT&T opposes mandating STS, although Bell Atlantic, and SBC are less than enthusiastic supporters.⁴

AT&T, Bell Atlantic, and SBC argue that the record does not show that there is sufficient demand to justify the cost of mandating STS. They note that demand for STS is minimal and STS calls cost more than other TRS calls because they last twice as long.⁵ However, neither the ADA, nor the Commission's rules require that the Commission perform a strict cost-benefit analysis showing documented benefits exceed documented costs. Section 255 of the Communications Act, as amended by the ADA, only requires that carriers make TRS services available if they are "readily achievable." The Commission has interpreted readily achievable to mean "easily accomplishable and able to be carried out without much difficulty or expense."⁶

²MCI Comments at 2.

³Notice at ¶ 23.

⁴AT&T Comments at 4; Bell Atlantic at 4; and SBC at 5.

⁵Bell Atlantic at 3.

⁶In the Matter of Implementation of Section 255 of the Telecommunications Act of 1996, Access to Telecommunications Services, Telecommunications Equipment, and Customer Premises Equipment by Persons with Disabilities, Notice of Proposed Rulemaking, WT Docket No. 96-198 Adopted: April 2, 1998, at ¶ 97.

Additional calling times for STS calls would impose insignificant additional expense since, as no one disputes, STS demand is so limited. Additional costs associated with training and maintaining CAs capable of providing STS will be more substantial than costs associated with increased call length, but MCI believes that mandating STS within two years is readily achievable. CAs are already trained to handle hearing carry over (HCO) calls. This training provides a knowledge base that will help constrain STS training costs. CAs providing STS would be performing essentially the same function as HCO. During an HCO call, the CA assists the person without a speech disability understand the person with the speech disability by reading text typed by the caller with the speech disability. During an STS call, the CA assists the person without a speech disability understand the person with the speech disability by respeaking words spoken by the caller with the speech disability.

In contrast to HCO, STS calls will require CAs to have the ability to deal with a greater variation in user abilities. Persons using HCO have varying degrees of typing facility that the CA must currently accommodate. That variability will no doubt increase with persons using STS.⁷ For this reason, MCI does not support requiring STS providers to adhere to the same level of accuracy associated with existing TRS services.⁸ For STS to be successful, the CA will have to be more flexible than with existing TRS services. As the Maryland Department of Budget and Management notes, a person without a speech disability often becomes accustomed to the speech patterns of the speech disabled party, and may not require continuous mediation by the CA.⁹ At

⁷Although as the Commission notes, persons with speech disabilities and typing limitations may be better served by STS than HCO. Notice at ¶ 23, fn. 57.

⁸See, for example, Comments of the National Association of the Deaf and the Consumer Action Network (NAD/CAN) at 4: “We urge that such services be required to comply with whatever minimum standards that are otherwise required of relay services...”

⁹Comments, Maryland Department of Budget and Management, at 3.

other times, the CA may need additional time and multiple interactions with the speech disabled party in order to effectively relay the intent of the speech disabled party. Similarly, STS calls will require additional communication between the CA and the service user regarding the role the user wants the CA to play, before a CA is prepared to place an STS call.

C. Video Relay Interpreting (VRI) Services

The Commission tentatively concluded that TRS providers should be able to recover the costs of Video Relay Interpreting (VRI) services from the interstate TRS fund. No party opposed this proposal. Disagreement centered on whether and when VRI should become a mandated TRS service. State agencies, carriers, and TRS providers argued that the combination of high costs required for: access to the requisite personal computer; access to requisite wideband transmission; and training CAs proficient in American Sign Language (ASL), prevented VRI from qualifying as a “readily achievable” accommodation under the ADA, and did not support a date-certain requirement of VRI services.¹⁰

User groups recognized that VRI would be too costly to mandate immediately, but supported phasing in VRI, with a date certain implementation of mandatory VRI within two years, the same transition period granted STS.¹¹ MCI believes this is too short a transition period given the current prospects for low-cost provision of wideband loop capabilities. Due to the limitations incumbent local exchange companies (ILECs) have placed on granting competitive LECs affordable access to xDSL capable loops, ILECs continue to limit the deployment of xDSL, permitting them to charge monopoly rates for ISDN and xDSL services and installation, and

¹⁰Bell Atlantic at 4; California PUC at 2; and Florida PSC at 4. Maryland Department was the only state agency to support mandatory VRI.

¹¹See, for example, Massachusetts Assistive Technology Partnership at 2, NAD/CAN at 7; Telecommunications for the Deaf, Inc., at 7.

preventing erosion of revenues from second lines and T1 services.¹² MCI believes that affordable wideband capabilities will rapidly increase once the Commission implements and enforces unbundling of facilities needed for wideband loop access. Once that occurs, the major cost barrier to mandatory VRI will be associated with the cost of training and staffing CAs proficient in ASL. These costs should become manageable within two years of true unbundling of advanced loop capabilities. However, as discussed immediately below, absent a change in Congressional intent, the Commission is not authorized to mandate VRI now or in the future.

III. Multilingual Relay Services (MRS) and Translation Services

In its notice, the Commission tentatively concluded that voluntary Multilingual Relay Service (MRS) would be reimbursable from the interstate TRS fund, provided it involved communication with voice telephone users in a shared foreign language, and so did not involve language translation services. In its Comments, MCI supported the Commission's tentative conclusions to make MRS both voluntary, and reimbursable from the interstate TRS fund only if no translation was involved.

MCI takes this opportunity to reconsider its support of the Commission's reimbursement discussion. The Commission is correct that a service that translates language is an enhanced or information service under the Commission's definitions of those terms, and per express Congressional direction, may not be made a mandatory TRS service.¹³ However, the Commission is not required to deny compensation for a voluntary enhanced service that is found to be essential for basic communication. Indeed, in this same Notice, the Commission tentatively concluded that

¹²See MCI Comments, Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, CC Docket No. 98-146, September 14, 1998

¹³By this logic however, same language MRS ought to have been made a mandatory service, since it simply involves the relaying of information without a change in the form or content of that information.

TRS providers may be reimbursed from the interstate TRS fund for voluntarily-provided VRI services. As the Commission notes, VRI is a service that translates ASL to spoken English, and vice versa, and is therefore also a translation service.¹⁴

Technically speaking, reimbursement for translation MRS would be for an information service, which would involve a subsidy for a non-essential service. But the non-essential characterization of translation-MRS is solely a function of the Commission's definition of information services, which it recognizes is not completely without arbitrary features. For example, in the *NATA Centrex* order, the Commission held that the enhanced services definition did not encompass adjunct-to-basic services. It concluded that, although adjunct-to-basic services fell under the enhanced service definition, they work to facilitate establishment of a basic transmission path over which a telephone call may be completed, without altering the fundamental character of the telephone service.¹⁵ The Commission should conclude that, as with adjunct-to-basic services, where states have identified a large enough community of interest to justify MRS for one or more foreign languages, translation MRS facilitate the establishment of a basic transmission path over which a telephone call may be completed, essentially waiving the application of its definition of information services under these conditions.

¹⁴Notice at 18.

¹⁵ *North American Telecommunications Association Petition for Declaratory Ruling under Section 64.702 of the Commission's Rules Regarding the Integration of Centrex, Enhanced Services, and Customer Premises Equipment*, ENF No. 84-2, *Memorandum Opinion & Order*, 101 FCC 2d 349, 359-361(1985) (*NATA Centrex Order*).

IV. Access to Emergency Services

In its Notice, the Commission asked parties to comment whether TRS centers should be required to pass a caller's ANI to an emergency services operator. Carriers and TRS providers opposed this requirement on grounds that it is often technically infeasible to do so. As AT&T notes, the TRS center is not an integral part of the communications network.¹⁶ Rather, the TRS center places the outbound call as a conference call through a PBX. The TRS center receives the caller's ANI, but is unable to automatically pass this ANI to an emergency service provider. Requiring automatic pass-through of the caller's ANI would impose significant (unreimbursed) cost on TRS providers and would not be "easily accomplishable and able to be carried out without much difficulty or expense." Current TRS regulations require CAs to handle emergency calls in the same manner as they handle any other TRS calls. MCI believes this requirement sufficiently protects public safety, and provides sufficient consistency.

VI. Access to Audiotext Services

In its Notice, the Commission tentatively concluded that Title IV of the ADA does not permit mandating access to audiotext services. User groups contend that Congress only intended to exclude access to audiotext services where it is technically infeasible to provide such access.¹⁷ Providing TRS users access to audiotext services raises the same technical problems that limited automatic pass through of the TRS user's ANI. A clear, end-to-end channel is not usually established in a TRS call that would permit touch tones of the caller to be sent to the audiotext service. State regulatory authorities may of course require carriers bidding on a TRS contract to provide this capability, but then those costs would be reflected in the contract bid. The

¹⁶AT&T Comments at 7.

¹⁷See, for example, Comments of NAD/CAN at 12.

recommendation by the National Association of the Deaf and Consumer Action Network that TRS providers not be reimbursed for the additional calls needed to retrieve audiotext information where direct interaction is not technically feasible would not be fair under the conditions under which TRS providers were granted existing TRS contracts.¹⁸

VII. Conclusion

For the above-mentioned reasons, MCI encourages the Commission to adopt the MCI's recommendations discussed in these Reply Comments.

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September 14, 1998

¹⁸NAD/CAN at 14.

Statement of Verification

I have read the foregoing and, to the best of my knowledge, information and belief, there is good ground to support it, and it is not interposed for delay. I verify under penalty of perjury that the foregoing is true and correct. Executed on September 14, 1998.

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